FASEB
FEDERATION OF AMERICAN SOCIETIES FOR EXPERIMENTAL BIOLOGY

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Submitted electronically via www.regulations.gov

Mr. Zachary Rogers
U.S. Department of Education
400 Maryland Avenue SW, Washington, DC 20202

Re: FASEB Comments on the Proposed Rule, *Education Department General Administrative Regulations*
Docket ID ED-2026-OPEPD-2542; RIN 1875-AA14
91 Fed. Reg. 54666 (Aug. 24, 2026); Comment Deadline: September 23, 2026

Dear Mr. Rogers:

I. Introduction and Statement of Interest

The Federation of American Societies for Experimental Biology (FASEB) welcomes the opportunity to comment on the Department of Education's proposed revisions to the Education Department General Administrative Regulations (EDGAR). FASEB is a federation of 21 American scientific societies that, collectively, represent more than 100,000 researchers across the biological and biomedical sciences. Since its founding in the United States in 1912, FASEB and its member societies have shared a mission centered on advancing human health and well-being by promoting research and education in the foundational biological and biomedical sciences. FASEB's members hold and administer multi-year federal awards, and its societies operate the journals, meetings, peer-review networks, and workforce-development programs through which the value of federally funded research is realized.

FASEB writes both as a recipient and steward of federal financial assistance, as a representative of the investigators and scholarly societies on which the federal research enterprise depends, and in support of institutions. We comment here not because education-program grants are the center of our members' portfolios, but because several provisions of this proposal would establish administrative precedents that reach across the federal grant-making system, with negative consequences for workforce development should they be adopted. We add the perspective of the foundational biomedical and biological research community, and we focus on the provisions where that perspective is most useful: the treatment of award termination, indirect costs, the research-workforce pipeline, and the commitment to merit-based awards.

FASEB supports much of what the proposal states it seeks to accomplish, and shares the Administration's commitment to rigorous, trustworthy, merit-based science as articulated in Executive Order 14303, "Restoring Gold Standard Science" (May 23, 2025). We support reducing administrative burden, writing in plain language, and directing federal dollars toward the outcomes that programs are meant to achieve, and we share the Department's stated commitment to merit, high standards and freedom of speech, inquiry, and press, all of which are foundational to rigorous science. FASEB's central concern is narrow: several of the proposal's operative provisions would, as drafted, undermine those very objectives.

One recent development has bearing directly on this rulemaking. On September 2, 2026, the President signed the Continuing Appropriations Act, 2027 (P.L. 119-103), Section 157 of which prohibits the Office of Management and Budget from issuing or finalizing its proposed Regulation for Federal Financial Assistance, or a substantially similar rule, through December 11, 2026. Several provisions of this EDGAR proposal, including the competitive preference for lower indirect-cost rates and the expanded termination authority, are substantively similar to provisions of the now-paused OMB rule. FASEB shares the concern, raised by others in this docket, that finalizing those provisions at the Department while Congress has chosen to pause the same substantive changes government-wide warrants careful attention to the congressional judgment Section 157 reflects. We respectfully encourage the Department to address that question directly before proceeding.

II. Summary of Recommendations

FASEB respectfully recommends that the Department:

1. [Overall] **Address the congressional pause before finalizing**, given that Section 157 of P.L. 119-103 has paused substantively similar provisions at OMB through December 11, 2026;
2. [§75.901] **Narrow the termination-for-convenience authority**, so that discretionary awards are terminated on grounds stated in the award, with documented findings, a meaningful notice-and-cure period, consideration of the sunk Federal investment and reliance interests, and a right for reconsideration;
3. [§§75.228, 75.562] **Reconsider competitive preference for below-cost indirect rates**, and ensure workforce-development grants can recover the reasonable cost of responsible implementation of the corresponding programs, rather than facing pressure from both directions;
4. [§§75.500(f), 76.500(f)] **Define "proxies" and confirm the scope of the merit assurance**, so that legitimate, merit-based scientific-workforce, training, and participant-selection activities are not inadvertently included;
5. [§75.253] **Preserve due-process recourse for continuation decisions**, rather than foreclosing review of reductions and non-continuations through the GEPA "withholding" carve-out;
6. [Part 77] **Retain a rigorous, common evidence standard** as the anchor of the new "evidence framework," and ensure third-party review preserves the quality of methods; and

7. [§§75.100–75.105, 79.x] **Retain a mandatory, permanent public notice requirement**, rather than ending Federal Register publication in favor of Grants.gov alone, which would reduce transparency and disadvantage applicants not already in the Grants.gov system.

III. The Expanded Termination-for-Convenience Authority Should First Account for the Federal Investment and Preserve Recourse

Proposed §75.901 would give explicit notice of the Department's authority to terminate discretionary awards for convenience, grounded in 2 CFR 200.340(a)(4) and in the position that grantee agreements are "ultimately contractual in nature," citing recent Supreme Court decisions. FASEB does not question the Department's legitimate authority to end awards for cause, by mutual agreement, or on clear legal grounds stated in the award. Our concern is with terminating meritorious, partially completed work for reasons unrelated to performance.

As FASEB explained in its comments submitted on OMB's Uniform Guidance proposed rule, grants are not procurement contracts. A research award is the instrument around which an institution hires staff, recruits and admits students, makes commitments to human subjects, and designs multi-year projects on the premise that a funded, meritorious project will run its course. The outcomes of research experiments are not known at the time they are proposed; the purpose of the award is to explore and understand those outcomes, and unexpected findings are often the most valuable. Advances that were built on prior knowledge without a guaranteed result, or that arose unexpectedly, include the Human Genome Project, recombinant DNA technology, GLP-1 medicines, clot-buster medications, statins, and the traumatic brain-injury findings that now benefit America's veterans and as it relates to Department of Education grants – the next generation of scholars who can make these discoveries. Ending such a project midway for convenience forfeits the federal investment already made and returns no finished outcome, which is the opposite of responsible stewardship, and it strands years of taxpayer funded work and the careers built around it.

Sound stewardship argues for a defined process. Before a multi-year award is ended for reasons other than performance or compliance, the record should show that the Department considered the funds already invested, the reliance interests of the institution and its students, and less disruptive alternatives such as modification or an orderly, funded closeout. The analogy to the Federal Acquisition Regulation does not hold in the grant context, including that the Department imports the termination authority without the compensation protection that the procurement framework would provide.

Recommendation. Retain termination for convenience only on grounds stated in the award at the outset. Before terminating a multi-year award for reasons other than cause, require the Department to document its findings, provide a meaningful notice-and-cure period, consider the sunk Federal investment and the reliance interests at stake, and preserve a meaningful right for reconsideration.

IV. Competitive Preference for Below-Cost Indirect Rates Would Pressure Institutions to Under-Recover the True Cost of Research

Proposed §75.228 would let the Secretary award competitive preference to applicants who voluntarily propose an indirect-cost rate below their federally negotiated rate, in tiers reaching 50 percent or more, or who decline indirect costs entirely, locked for the life of the grant. The Department's own analysis models a transfer of roughly $45 million per year from indirect to direct costs.

Indirect costs are not overhead in the sense of funds that would be available elsewhere. They are the facilities, laboratory safety, data security, and compliance infrastructure that federally funded grants and programs cannot run without, and they are what rigor and reproducibility require in practice. Making a below-cost rate a basis for competitive advantage does not reduce those actual costs to grantees; it shifts the costs onto the institution. That, in turn, advantages applicants with the reserves or endowments to absorb the shortfall over those without; smaller and lower-resourced institutions, and the investigators and early career researchers they support, would face pressure to compete by underfunding the infrastructure that makes their research sound. Over time, the predictable effect would be to narrow rather than broaden the base of institutions able to compete – and this would further damage the U.S. economy. This preference is also difficult to reconcile with the government-wide cost-sharing and indirect-cost-rate rules, including the restriction on using voluntary committed cost sharing as a merit-review factor. FASEB urges the Department to address it directly.

Recommendation. Reconsider §75.228. If the Department retains a mechanism to reward cost-efficiency, it should be designed so that it does not penalize institutions for recovering the reasonable, audited cost of the infrastructure that federally funded research requires and should account for the disparate effect on institutions without significant financial reserves.

V. The Proposal's Treatment of Training Grants Would Undercut the Research-Workforce Pipeline

FASEB and its member societies devote substantial effort to strengthening the American scientific workforce through education, career development, mentoring, and scientific meetings where the next generation of researchers are educated and build professional networks. The proposal's treatment of indirect costs could weaken the infrastructure that makes these activities possible.

- Proposed §75.562 provides that training grants without a federally recognized indirect-cost rate are capped at 8 percent of modified total direct costs and may not use the *de minimis* rate available under 2 CFR 200.414.
- At the same time, proposed §75.228 would create a competitive preference for applicants willing to accept an indirect-cost rate below their negotiated rate.
- These provisions place pressure on workforce development grants from two directions at once: workforce-development programs may be expected to operate without adequate support for

the personnel, facilities, administration, and other institutional infrastructure required to carry out high-quality workforce-development programs. When institutions cannot fully recover these necessary costs, they may be forced to offer fewer training opportunities, reduce the resources available to each trainee, or both—undermining the quantity and quality of the scientific-workforce pipeline.

The proposal makes clear that a strong research workforce is among its own goals. Proposed §75.210 makes "high-quality personnel," preparation for careers in fields with demonstrated shortages, and evidence-based personnel preparation explicit selection factors. FASEB shares that goal, and it is precisely why the cost treatment of workforce development grants matters. A rule that prizes high-quality personnel while constraining the funds that educate them works against its own stated purpose. We urge the Department to ensure that its cost provisions support, not erode, the workforce development capacity the rule elsewhere seeks to reward.

Recommendation. Ensure that workforce development grants can recover the reasonable cost of the infrastructure required. Ensure the competitive preference in §75.228 is not applied in a way that pressures training programs to underfund the personnel and facilities on which quality training depends.

VI. Define the Merit Assurance So That Legitimate Scientific-Workforce Activities Are Not Inadvertently Included

Proposed §§75.500(f) and 76.500(f) would require grantees to assure that hiring, admissions, promotions, and compensation under a grant are based on merit and high standards, without regard to race, color, religion, sex, national origin, "or proxies thereof," subject to narrow exceptions. FASEB supports merit and high standards without reservation; they are the foundation of rigorous science, and we share the Department's stated commitment to freedom of speech, inquiry, and press reflected in the same provision.

Our concern is limited and technical. The term "proxies thereof" is not defined, and its breadth is genuinely unclear. Read broadly, it could be understood to reach merit-based practices that scientific institutions rely on; for example, recruiting from a wide range of institutions and regions, supporting early-career researcher development, or selecting study participants and research populations on legitimate scientific grounds (e.g., certain diseases impact certain portions of the population). Undefined standards are difficult both for grantees to comply with and for the Department to apply consistently, and the resulting uncertainty can chill legitimate activity.

Recommendation. Precisely define "proxies", and confirm in the regulatory text that legitimate, merit-based workforce and participant and population selection activities based on scientific grounds are not restricted by this provision.

VII. Continuation Decisions Should Preserve a Meaningful Right to Reconsideration

Proposed §75.253 clarifies the Secretary's discretion over whether and at what level to make continuation awards, and states that reducing or declining a continuation award does not constitute a "withholding" under section 455 of the General Education Provisions Act, which would remove the Office of Hearings and Appeals' jurisdiction. FASEB takes no position on the Department's internal appeal architecture. We note only that multi-year research programs are planned and staffed in reliance on the expectation that funded, meritorious work will continue absent a performance or compliance problem, and that a meaningful opportunity to seek reconsideration of a mid-project reduction protects both the Federal investment and the trainees whose positions depend on it. We encourage the Department to preserve such recourse.

VIII. Ending Publication in the Federal Register Would Reduce Transparency and Bar Public Accountability

The proposal would end the requirement for publication in the Federal Register of funding notices, priorities, maximum award amounts, and intergovernmental review lists, moving them to Grants.gov. The Department frames this as reduction of burden. FASEB is concerned that its practical effect would be a reduction in transparency and preventing the public from the needed accountability. The value of the Federal Register lies precisely in what the proposal would remove: it is a single, mandatory, permanent, and publicly citable record that any interested party can rely on without first being registered in a particular system. Grants.gov, by contrast, requires a prospective applicant to be in the system to see what is posted. Consolidating notice into that one channel does not eliminate the effort of finding funding opportunities; it would shift that effort onto anyone not already connected, and it would remove the assurance that a notice was published in a place everyone can easily access.

This trade-off would fall hardest on the applicants the Department says it wants to serve. Investigators and institutions newer to Federal funding, and those without dedicated grants offices to monitor Grants.gov, are the least likely to be plugged into a single portal and the most reliant on a required, visible public notice. Removing the Federal Register requirement would limit awareness of Federal opportunities to those already inside the system, which works against the goal of broadening participation.

Recommendation. Retain a mandatory, permanent, publicly accessible notice requirement that does not depend on registration in a single system. If the Department consolidates notice on Grants.gov, it should preserve an equivalent required public record, immediately available, durably archived and citable, so that simplification does not come at the expense of the transparency and broad awareness that a required Federal Register notice guarantees.

IX. Conclusion

FASEB shares the Department's goals of reduced burden, clarity, merit, and responsible stewardship of federal funds. Our recommendations are directed at a small number of provisions where the mechanisms chosen, as drafted, would undercut those goals or set precedents that would weaken the broader federal research enterprise and the American innovation and economic strength it delivers. Given that Congress has paused substantively similar provisions government-wide through December 11, 2026, we respectfully urge the Department to address that congressional judgment before finalizing. FASEB and its member societies welcome the opportunity to provide additional information and to work with the Department to achieve the rule's stated objectives without these consequences.

Respectfully Submitted,

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